

ESTTA Tracking number: **ESTTA425856**

Filing date: **08/18/2011**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Diversified Control, Inc.
Granted to Date of previous extension	08/20/2011
Address	3333 California Road Orchard Park, NY 14127 UNITED STATES
Attorney information	Jonathan W. Brown Lipsitz Green Scime Cambria LLP 42 Delaware Avenue Suite 120 Buffalo, NY 14202 UNITED STATES ip@lglaw.com Phone:716-849-1333 Ext. 371

Applicant Information

Application No	79089193	Publication date	06/21/2011
Opposition Filing Date	08/18/2011	Opposition Period Ends	08/20/2011
International Registration No.	1056238	International Registration Date	09/06/2010
Applicant	Baker & Finnemore, Limited. Bak-fin Works 199 Newhall Street; Birmingham B3 1SN UNITED KINGDOM		

Goods/Services Affected by Opposition

Class 006. All goods and services in the class are opposed, namely: Retaining hardware for general use, namely, retaining rings, retaining washers, push-on nuts, split rings, semi-circular flexible metal ring clips, also known as circlips, all made of common metal

Grounds for Opposition

Deceptiveness	Trademark Act section 2(a)
False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)

Mark Cited by Opposer as Basis for Opposition

U.S. Application/Registration No.	NONE	Application Date	NONE
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Registration Date	NONE
Word Mark	STARLOCK
Goods/Services	Locking hardware

Attachments	STARLOCK Notice of Opposition.pdf (5 pages)(148334 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Jonathan W. Brown/
Name	Jonathan W. Brown
Date	08/18/2011

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE
TRADEMARK TRIAL AND APPEAL BOARD

In re Application No. 79089193
Filed: September 6, 2010
Published: June 21, 2011 in the *Official Gazette*
For: **STARLOCK**

DIVERSIFIED CONTROL, INC.,

Opposer,

vs.

BAKER & FINNEMORE, LTD.,

Applicant.

Opposition No. _____

NOTICE OF
OPPOSITION

United States Patent and Trademark Office
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, Virginia 22313-1451

DIVERSIFIED CONTROL, INC. (“DCI” or “Opposer”), a New York corporation, located and doing business at 3333 California Road, Orchard Park, New York 14127, believes that it will be damaged by the registration on the principal register of the mark “STARLOCK” shown in Application Serial No. 79089193. Said Application was filed by Baker & Finnemore, Ltd. (“Applicant”), a private limited company with a mailing address of 199 Newhall Street, Birmingham, B3 1SN, United Kingdom, and published for opposition in the *Official Gazette* of June 21, 2011; DCI hereby opposes registration thereof.

As grounds in support of its opposition, DCI alleges and asserts as follows:

1. DCI has adopted the STARLOCK mark (the “Mark”) and has used it for many years in interstate commerce in connection with the sale of certain locking hardware utilized in the telecommunications industry. DCI currently has records establishing its use of the STARLOCK trademark at least as early as February 13, 1992. However, upon information and belief, use of the Mark began as early as 1981 by DCI’s predecessor-in-interest, Diversified Control Systems.
2. Since adopting the Mark, DCI has used it continuously to identify its goods and to distinguish them from goods made and sold by others by, among other things, prominently displaying the Mark on its marketing materials. The Mark is a strong Mark and has attained considerable value.
3. As a result of DCI’s extensive advertising, sales, and marketing of goods bearing the STARLOCK Mark, said Mark has become well-known to purchasers.
4. By virtue of DCI’s extensive use and promotion of the STARLOCK Mark, DCI has established valuable goodwill in the Mark, and the public has come to associate DCI’s Mark with DCI. As such, the public has come to know DCI’s Mark as an indication of goods and services that originate from DCI.
5. On September 6, 2010, Applicant filed U.S. Trademark Application Serial No. 79089193, based on its intent to use the mark “STARLOCK” in connection with “retaining hardware for general use, namely, retaining rings, retaining washers, push-on nuts, split rings, semi-circular flexible metal ring clips, also known as circlips, all made of common metal.”

6. On information and belief, the goods identified in the Application are highly related to the goods with which DCI has been using in connection with the STARLOCK trademark for many years.

7. On information and belief, the goods with which Applicant uses its “STARLOCK” mark are similar in size and shape to those of DCI.

8. Applicant’s applied-for “STARLOCK” mark includes and incorporates DCI’s entire STARLOCK trademark. Indeed, the marks are identical.

9. Upon information and belief, Applicant’s use and/or proposed use of its “STARLOCK” trademark creates a misleading association of Applicant’s mark and Applicant’s goods with DCI.

10. DCI began use of its STARLOCK trademark in connection with the promotion and sale of its STARLOCK hardware prior to Applicant’s September 6, 2010 filing date of the Application.

11. As a result of the highly related nature of the goods and services identified by the parties’ marks, Applicant’s mark is likely to cause confusion, mistake or deception in the trade and among ordinary purchasers as to the source, origin or sponsorship of the parties’ respective goods and services.

12. Registration of Applicant’s “STARLOCK” mark will result in damage to DCI under the provisions of 15 U.S.C. §1125, pursuant to the allegations stated above, and registration should be denied pursuant to 15 U.S.C. § 1052(d).

13. If the Applicant’s mark is permitted to obtain registration, the registration would presumptively entitle Applicant to *prima facie* exclusive ownership and rights to the “STARLOCK” mark. Such registration would cause confusion among consumers as to the

separate and distinct sources of Applicant's goods and services and DCI's goods and services and the relationship of DCI to Applicant, thereby damaging DCI's goodwill in its Mark and resulting in irreparable harm to DCI's business and reputation, all to the detriment of DCI which has expended considerable sums and effort in promoting its STARLOCK trademark.

WHEREFORE, DCI prays that this Opposition be sustained and that registration of U.S. Trademark Application Serial No. 79089193 be refused.

Dated: August 18, 2011

Respectfully submitted,

DIVERSIFIED CONTROL, INC. by its counsel
Lipsitz Green Scime Cambria LLC

By: /Jonathan W. Brown/
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CERTIFICATE OF FILING AND SERVICE

I, Lori Vangelov, hereby certify that on August 18, 2011, I caused a true copy of the foregoing Notice of Opposition to be filed electronically with the United States Patent and Trademark Office and served upon Applicant's attorney of record, Suzanne K. Ketler, Esq., by United States First Class Mail addressed to 222 S. Main Street, Akron, Ohio 44308.

Dated: August 18, 2011

/Lori Vangelov/
Lori Vangelov

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